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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/585,553	06/02/2000	Shuji Ono	3562-0102P	5106

7590 01/02/2004

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EXAMINER

WU, DOROTHY

ART UNIT	PAPER NUMBER
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2615

DATE MAILED: 01/02/2004

7

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/585,553

Applicant(s)

ONO, SHUJI

Examiner

Dorothy Wu

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) 6-15, 17-19 and 21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 16 and 20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3.

- 4) ☐ Interview Summary (PTO-413) Paper No(s) ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of Group 1 in Paper No. 6 is acknowledged. The traversal is on the ground(s) that a serious burden has not been placed on the Examiner to consider all of the claims in a single application. This is not found persuasive because although the claims pertain to the use of distance information, there is no evidence that the searches for inventions using the distance information to determine processing, inputting, or outputting are co-extensive.

The requirement is still deemed proper and is therefore made FINAL.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-5, 16, and 20 are rejected under 35 U.S.C. 102(e) as being anticipated by Matsugu, U.S. Patent 6,636,635.

Regarding claim 1, Matsugu teaches an image processing apparatus for processing an image obtained by photographing a subject (col. 15, lines 25-28), comprising a condition-determining unit (template size determination unit 507) determining a condition (size of

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template) for processing said image (extracting an object) based on depth information indicating the distance to each part of said subject (col. 4, lines 23-26; col. 45, lines 30-35).

Regarding claim 2, Matsugu teaches an image processing unit (similarity evaluation unit 508) processing said image based on said condition (size of template) for processing said image (col. 45, lines 32-35).

Regarding claim 3, Matsugu teaches an extractor (object distance detection unit 505) for extracting depth information based on parallax images obtained by photographing said subject from different viewpoints (col. 44, line 66-col. 45, line 5; Fig. 23).

Regarding claim 4, Matsugu teaches that the invention relates to a method of extracting a target object from an image, which reads on an extractor extracting data of an aimed object (col. 1, lines 7-9). As Matsugu teaches that the object distance determines the size of the template used in the extraction, see above, the extraction of the target image is based on depth information. Matsugu teaches that the type of a template group associated with one specific object is input, which reads on a condition (type of template) for processing said image being based on information including said data of said aimed object (col. 46, line 65-col. 47, line 4).

Regarding claim 5, Matsugu teaches that a target object is extracted from an image sensed by an image sensing apparatus, which reads on the extraction of image information included in an image and the extraction of an aimed object based on image information (col. 1, lines 7-9).

Regarding claim 16, because the apparatus of claim 1 is taught, the method corresponding to the apparatus is also taught.

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Regarding claim 20, Matsugu teaches a storage medium that provides a program to the image sensing apparatus (col. 1, lines 13-16). Because the apparatus of claim 1 is taught, the recording medium that stores the program to perform the method of processing is also taught.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dorothy Wu whose telephone number is 703-305-8412. The examiner can normally be reached on Monday-Friday, 9:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Christensen can be reached on 703-308-9644. The fax phone number for the organization where this application or proceeding is assigned is 703-746-9461.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-0377.


DW
December 29, 2003


ANDREW CHRISTENSEN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600